

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 17-20263
Honorable Victoria A. Roberts

TIONNA MITCHELL,

Defendant.

ORDER GRANTING EMERGENCY
MOTION FOR COMPASSIONATE RELEASE

Tionna Mitchell (“Mitchell”) filed the above entitled motion. She is serving a combined term of incarceration after being sentenced by both this Court and The Honorable Denise Page Hood in *United States v. Mitchell*, No. 17-20652. Judge Hood granted Mitchell compassionate release under 18 USC § 3582(c). Judge Hood concluded Mitchell was entitled to compassionate release because she “has established that she has a medical condition that places her in a higher risk category for COVID-19 complications. Mitchell cites her medical records in support of her contention that she has a body mass index (“BMI”) between 31-32. [ECF No. 67, Pg.ID 547] According to Mitchell, a BMI above 29.9 categorizes an individual as “obese.” [*Id.*] The CDC has revised its criteria, and individuals

with a BMI over 30 are now classified as vulnerable individuals. See Groups at Higher Risk for Severe Illness, Centers for Disease Control, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.htm (last visited July 2, 2020)."

Judge Hood also considered the situation at FCI Danbury where Mitchell is housed, her crime of conviction, and other § 3553 factors. Judge Hood noted the egregious nature of Mitchell's crime but that it was nonviolent. She then held, "After weighing Mitchell's past behavior with the risks posed to her by six more months at FCI Danbury the Court finds that denying Mitchell's request and holding her until December would not further the legitimate goals of incarceration, such as "retribution, deterrence, incapacitation, and rehabilitation." *Graham v. Florida*, 560 U.S. 48, 71 (2010). It is the Court's role to balance justice with mercy, and relying solely on Mitchell's past behavior when she has demonstrated a heightened health risk would complicate that role. See, *Walker v. Martel*, 709 F.3d 925, 950 (9th Cir. 2013) (Gould, J., concurring in part and dissenting in part)

("[M]ercy bears richer fruits than strict justice.") (internal quotations omitted))."

However, the Bureau of Prisons ("BOP") decided that even though Judge Hood had released Mitchell, it would not process her for release due to this Court's sentence.

Mitchell's motion before this Court is fully briefed.

The Court agrees with the analysis and conclusions of Judge Hood and rejects the government's reasons in opposition to Mitchell's release.

The Court now issues an order identical to that issued by Judge Hood, so that there is no confusion regarding the relief granted by the Court:

1. Mitchell's Emergency Motion for Immediate Reduction of Sentence (Compassionate Release) [ECF No. 87] is **GRANTED**.
2. Mitchell's sentence of imprisonment is reduced to time served.
3. The BOP must release Mitchell immediately, without holding her for a 14-day quarantine period at FCI Danbury.
4. Mitchell must remain self-quarantined for 14 days after release.

5. Upon release, Mitchell must begin a new term of supervised release that is equal to the unserved portion of her original term of imprisonment (as calculated by the BOP).

6. Mitchell must serve the new term of supervised release under home confinement, with electronic location monitoring to begin as soon as the Probation Department can safely install the necessary electronic monitoring equipment and upon such other conditions as the Probation Department deems necessary.

7. Within 24 hours of release from BOP custody, Mitchell must call the Probation Department to schedule an appointment.

8. Mitchell's original term of supervised release is canceled.

IT IS ORDERED.

s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: 8/18/2020